

TOWN OF DAVIE

TOWN COUNCIL AGENDA REPORT

TO: Mayor and Councilmembers

FROM/PHONE: William Ackerman, Budget & Finance Director / 797-1050

PREPARED BY: Colleen Ryan, Finance & Budget Analyst / 797-1024

SUBJECT: Resolution

AFFECTED DISTRICT: All Districts

ITEM REQUEST: **Schedule for Council Meeting**

TITLE OF AGENDA ITEM: A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, RELATING TO THE COLLECTION AND DISPOSAL OF SOLID WASTE IN THE TOWN OF DAVIE, FLORIDA; REIMPOSING SOLID WASTE SERVICE ASSESSMENTS AGAINST ASSESSED PROPERTY LOCATED WITHIN THE TOWN OF DAVIE, FLORIDA, FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2008; APPROVING THE RATE OF ASSESSMENT; APPROVING THE ASSESSMENT ROLL; AND PROVIDING AN EFFECTIVE DATE.

REPORT IN BRIEF: The Town enacted Ordinance 2005-19 which authorized the imposition of an annual Solid Waste Service Assessment for solid waste collection and disposal services, facilities or programs. In order to reimpose the assessment for Fiscal Year 2008/2009 and use the tax bill collection method, the Ordinance requires the Town to adopt an Annual Rate Resolution which establishes the final assessment rate and approves the Assessment Roll.

For FY 2008/2009, the solid waste cost is approximately \$6,481,000 which results in a solid waste assessment of \$295.29 per dwelling unit. This is a 4.3% increase over the FY 2007/2008 assessment rate of \$283.03.

PREVIOUS ACTIONS: Ordinance 2005-19; R-2005-255; R-2005-055; R-2006-208; R-2007-252. Council also approved R-2008-145, the preliminary solid waste assessment rate resolution for FY2008/2009.

CONCURRENCES:

FISCAL IMPACT: Yes

Has request been budgeted? Yes

If yes, expected cost: The majority of the solid waste assessment is passed-through to Waste Management under its franchise agreement with the Town. The Town has budgeted approximately \$986,000 in franchise fee revenue.

RECOMMENDATION(S): Motion to approve the resolution.

Attachment(s): Annual Rate Resolution

TOWN OF DAVIE, FLORIDA

**SOLID WASTE SERVICE ASSESSMENT
ANNUAL RATE RESOLUTION
FOR
FISCAL YEAR BEGINNING OCTOBER 1, 2008**

ADOPTED SEPTEMBER 15, 2008

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RESOLUTION NO. R-2008-_____

A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, RELATING TO THE COLLECTION AND DISPOSAL OF SOLID WASTE IN THE TOWN OF DAVIE, FLORIDA; REIMPOSING SOLID WASTE SERVICE ASSESSMENTS AGAINST ASSESSED PROPERTY LOCATED WITHIN THE TOWN OF DAVIE, FLORIDA, FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2008; APPROVING THE RATE OF ASSESSMENT; APPROVING THE ASSESSMENT ROLL; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Town Council (the "Council") of Davie, Florida (the "Town"), has enacted Ordinance No. 2005-19 (the "Ordinance"), which authorizes the imposition of annual Solid Waste Service Assessments for Solid Waste collection and disposal services, facilities or programs against certain Assessed Property within the Town;

WHEREAS, the imposition of an annual Solid Waste Service Assessment for Solid Waste collection and disposal services, facilities or programs for each Fiscal Year is an equitable and efficient method of allocating and apportioning the Solid Waste Cost among parcels of Assessed Property;

WHEREAS, the Council desires to reinstate an assessment program for Solid Waste collection and disposal services, facilities or programs within the Town using the tax bill collection method for the Fiscal Year beginning on October 1, 2008;

WHEREAS, the Council, on July 16, 2008, adopted Resolution No. R-2008-145 (the "Preliminary Rate Resolution"), containing a brief and general description of the Solid Waste collection and disposal services, facilities or programs to be provided to Assessed Property, describing the method of apportioning the Solid Waste Cost to compute the Solid Waste Service Assessment for Solid Waste collection and disposal services, facilities or

programs against Residential Property, designating a rate of assessment, and directing preparation of the Assessment Roll and provision of the notice required by the Ordinance;

WHEREAS, in order to reimpose Solid Waste Service Assessments for the Fiscal Year beginning October 1, 2008, the Ordinance requires the Town to adopt an Annual Rate Resolution, during its budget adoption process for each Fiscal Year, which establishes the rate of assessment and approves the Assessment Roll for the upcoming Year, with such amendments as the Council deems appropriate, after hearing comments and objections of all interested parties;

WHEREAS, the updated Assessment Roll has heretofore been made available for inspection by the public, as required by the Ordinance;

WHEREAS, notice of a public hearing scheduled for September 15, 2008 has been published and, as required by the terms of the Ordinance, mailed to each Owner of Residential Property proposed to be assessed notifying such Owners of their opportunity to be heard, an affidavit regarding the form of notice mailed to each Owner of Residential Property being attached hereto as Appendix A and the proof of publication being attached hereto as Appendix B; and

WHEREAS, a public hearing was held on September 15, 2008, and comments and objections of all interested persons have been heard and considered as required by the terms of the Ordinance.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF DAVIE, FLORIDA, AS FOLLOWS:

SECTION 1. AUTHORITY. This resolution is adopted pursuant to Ordinance No. 2005-19; Resolution No. R-2005-255 (the "Initial Assessment Resolution"); and Resolution No. R-2008-145 (the "Preliminary Rate Resolution"); Article VIII, Section 2, Florida Constitution; sections 166.021 and 166.041, Florida Statutes; and other applicable provisions of law.

SECTION 2. DEFINITIONS AND INTERPRETATION. This resolution constitutes the Annual Rate Resolution as defined in the Ordinance. All capitalized terms in this resolution shall have the meanings defined in the Ordinance, the Initial Assessment Resolution, and the Preliminary Rate Resolution.

SECTION 3. REIMPOSITION OF SOLID WASTE COLLECTION AND DISPOSAL ASSESSMENTS.

(A) The parcels of Assessed Property described in the Assessment Roll, which is hereby approved, are hereby found to be specially benefited by the provision of Solid Waste collection and disposal services, facilities or programs described in the Preliminary Rate Resolution in the amount of the Solid Waste Service Assessment set forth in the updated Assessment Roll, a copy of which was present at the above referenced public hearing and is incorporated herein by reference. It is hereby ascertained, determined and declared that each parcel of Assessed Property within the Town will be benefited by the Town's provision of Solid Waste collection and disposal services, facilities or programs in an amount not less than the Solid Waste Service Assessment for such parcel, computed in the manner set forth in the Preliminary Rate Resolution. Adoption of this Annual Rate Resolution constitutes a legislative determination that all parcels assessed derive a special

benefit, as set forth in the Ordinance, the Initial Assessment Resolution and the Preliminary Rate Resolution, from the Solid Waste collection and disposal services, facilities or programs to be provided and a legislative determination that the Solid Waste Service Assessments are fairly and reasonably apportioned among the Residential Properties that receive the special benefit as set forth in the Preliminary Rate Resolution.

(B) The method for computing Solid Waste Service Assessments described in the Preliminary Rate Resolution is hereby approved.

(C) For the Fiscal Year beginning October 1, 2008, the Solid Waste Cost of \$6,481,000.00 shall be allocated among all parcels of Assessed Property, based upon each parcels' classification as Residential Property and the number of Dwelling Units for such parcels. An annual rate of assessment equal to \$295.29 is hereby imposed for each Dwelling Unit. Solid Waste Service Assessments for Solid Waste collection and disposal services, facilities or programs in the amounts set forth in the Assessment Roll, as herein approved, are hereby levied and imposed on all parcels of Assessed Property described in the Assessment Roll.

(D) Any shortfall in the expected Solid Waste Service Assessment proceeds due to any reduction or exemption from payment of the Solid Waste Service Assessments required by law or authorized by the Council shall be supplemented by any legally available funds, or combination of such funds, and shall not be paid for by proceeds or funds derived from the Solid Waste Service Assessments.

(E) Such Solid Waste Service Assessments shall constitute a lien upon the Assessed Property so assessed equal in rank and dignity with the liens of all state, county, district or municipal taxes and other non-ad valorem assessments. Except as otherwise

provided by law, such lien shall be superior in dignity to all other liens, titles and claims, until paid.

(F) The Assessment Roll, as herein approved, shall be delivered to the Tax Collector for collection using the tax bill collection method in the manner prescribed by the Ordinance. The Assessment Roll, as delivered to the Tax Collector, shall be accompanied by a Certificate to Non-Ad Valorem Assessment Roll in substantially the form attached hereto as Appendix C.

SECTION 4. CONFIRMATION OF PRELIMINARY RATE RESOLUTION. The Preliminary Rate Resolution is hereby confirmed.

SECTION 5. EFFECT OF ADOPTION OF RESOLUTION. The adoption of this Annual Rate Resolution shall be the final adjudication of the issues presented herein (including, but not limited to, the method of apportionment, the rate of assessment, the Assessment Roll and the levy and lien of the Solid Waste Service Assessments for Solid Waste collection and disposal services, facilities or programs) unless proper steps shall be initiated in a court of competent jurisdiction to secure relief within 20 days from the date of this Annual Rate Resolution.

SECTION 6. EFFECTIVE DATE. This resolution shall take effect immediately upon its passage and adoption.

PASSED AND ADOPTED this 15th day of September, 2008.

MAYOR/COUNCIL MEMBER

ATTEST:

TOWN CLERK

APPROVED THIS 15TH DAY OF SEPTEMBER, 2008

APPENDIX A

AFFIDAVIT REGARDING NOTICE MAILED TO PROPERTY OWNERS

AFFIDAVIT OF MAILING

BEFORE ME, the undersigned authority, personally appeared Gary Shimun, who, after being duly sworn, deposes and says:

1. Gary Shimun, as Town Administrator of the Town of Davie, Florida ("Town"), pursuant to the authority and direction received from the Town Council, timely directed the preparation of the Assessment Roll and the preparation, mailing, and publication of notices in accordance with the Solid Waste Service Assessment Ordinance adopted by the Town Council on September 15, 2005 (the "Assessment Ordinance") and Resolution No. R-2008-145 (the "Preliminary Rate Resolution").

2. In accordance with the Preliminary Rate Resolution, Mr. Shimun timely provided all necessary information for notification of the Solid Waste Service Assessment to the Property Appraiser of Broward County to be included as part of the notice of proposed property taxes under section 200.069, Florida Statutes, the truth-in-millage notification. The information provided to the Property Appraiser to be included on the truth-in-millage notification included the following: the purpose of the assessment; the total amount proposed to be levied against each parcel; the unit of measurement to be applied against each parcel to determine the assessment; the number of such units contained within each parcel; the total revenue the Town expects to collect by the assessment; a statement that failure to pay the assessment will cause a tax certificate to be issued against the property which may result in a loss of title; a statement that all affected property owners have a right to appear at the hearing and to file written objections with the local governing board within 20 days of the notice; and the date, time, and place of the hearing.

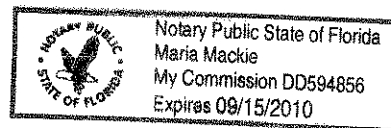
FURTHER AFFIANT SAYETH NOT.

Gary Shimun
Gary Shimun, affiant

STATE OF FLORIDA
COUNTY OF BROWARD COUNTY

The foregoing Affidavit of Mailing was sworn to and subscribed before me this 9th
day of September, 2008 by Gary Shimun, Town Administrator, Town of Davie, Florida.
He is personally known to me or has produced _____ as identification and did take an
oath. _____

Maria Mackie
Printed Name: MARIA MACKIE
Notary Public, State of Florida
My Commission Expires: 9/15/10
Commission No.: DD594856



APPENDIX B
PROOF OF PUBLICATION

Fort Lauderdale, Broward County, Florida
Boca Raton, Palm Beach County, Florida
Miami, Miami-Dade County, Florida

STATE OF FLORIDA

COUNTY OF BROWARD/PALM BEACH/MIAMI-DADE

Before the undersigned authority personally appeared James H. Croteau

who on oath says that he/she is a duly authorized representative of

the Classified Department of the Sun-Sentinel, daily newspaper published

in Broward/Palm Beach/Miami-Dade County, Florida, that the attached copy of

advertisement, being, a Notice of Public Hearing in the matter of To Reimpose

and Provide for Collection of Solid Waste Special Assessments in the paper

August 24, 2008 Affiant further says that the said Sun-Sentinel is a newspaper published

in said Broward/Palm Beach/ Miami-Dade County, Florida, and that the said newspaper has

heretofore been continuously published in said Broward/Palm Beach/Miami-Dade County,

Florida, each day, and has entered as second class matter at the post office in Fort

Lauderdale, in said Broward County, Florida, for a period of one year next preceding the

first publication of the attached copy of advertisement; and affiant says that he/she has

neither paid, nor promised, any person, firm or corporation any discount, rebate,

commission or refund for the purpose of securing this advertisement for publication in

said newspaper.

NOTARY PUBLIC-STATE OF FLORIDA Signature of Affiant) August 25, 2008

Noreen Rubin

Commission # DD365661

Expires: OCT. 24, 2008

Bonded Thru Atlantic Bonding Co., Inc.

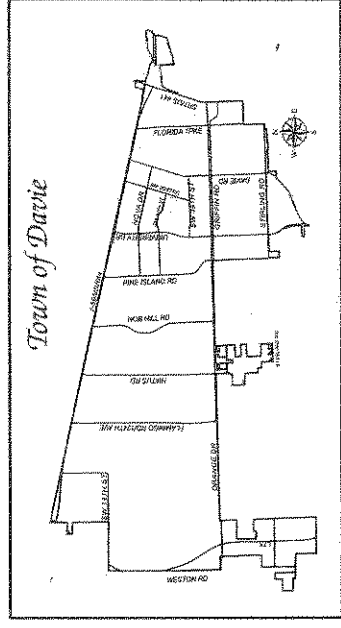
(Signature of Notary Public)

(Name of Notary typed, printed or stamped)

Personally

Known

or Produced Identification



NOTICE OF HEARING TO REIMPOSE AND PROVIDE FOR COLLECTION OF SOLID WASTE SERVICE SPECIAL ASSESSMENTS

Notice is hereby given that the Town Council of the Town of Davie, will conduct a public hearing to consider reimposing solid waste service assessments for the Fiscal Year beginning October 1, 2008, against certain improved residential properties located within the incorporated area of the Town, to fund the cost of solid waste collection and disposal services, facilities and programs provided to such properties and to authorize collection of such assessments on the tax bill.

The public hearing will be held at 12:00 p.m. on September 15, 2008 in the Town Council Chambers of Town Hall, 6591 Orange Drive, Davie, Florida, for the purpose of receiving public comment on the proposed assessments. All affected property owners have a right to appear at the hearing and to file written objections with the Town Council within 20 calendar days of the date of this notice. If a person decides to appeal any decision made by the Town Council with respect to any matter considered at the hearing, such person will need a record of the proceedings and may need to ensure that a verbatim record is made, including the testimony and evidence upon which the appeal is to be made. In accordance with the Americans with Disabilities Act, persons needing a special accommodation or an interpreter to participate in this proceeding should contact the Town at (954)797-1023, at least seven days prior to the date of the hearing.

The rate of assessment for the upcoming fiscal year shall be \$295.29 per dwelling unit. The total annual solid waste assessment revenue to be collected within the Town of Davie is estimated to be \$6,481,000.00. Copies of the Solid Waste Service Assessment Ordinance (Ordinance No. 2005-19), the Initial Assessment Resolution (Resolution No. R-2005-255), the Preliminary Rate Resolution initiating the annual process of updating the Assessment Roll and reimposing the Solid Waste Service Assessments, and the updated Assessment Roll for the upcoming fiscal year are available for

APPENDIX C

**FORM OF CERTIFICATE TO
NON-AD VALOREM ASSESSMENT ROLL**

**CERTIFICATE
TO
NON-AD VALOREM ASSESSMENT ROLL**

I HEREBY CERTIFY that, I am the Mayor of the Town Council or the authorized agent of the Town of Davie, Florida (the "Town"); as such I have satisfied myself that all property included or includable on the non-ad valorem assessment roll for solid waste services (the "Non-Ad Valorem Assessment Roll") for the Town is properly assessed so far as I have been able to ascertain; and that all required extensions on the above described roll to show the non-ad valorem assessments attributable to the property listed therein have been made pursuant to law.

I FURTHER CERTIFY that, in accordance with the Uniform Assessment Collection Act, this certificate and the herein described Non-Ad Valorem Assessment Roll will be delivered to the Broward County Department of Finance and Administrative Services by September 15, 2008.

IN WITNESS WHEREOF, I have subscribed this certificate and directed the same to be delivered to the Broward County Department of Finance and Administrative Services and made part of the above described Non-Ad Valorem Assessment Roll this _____ day of _____, 2008.

TOWN OF DAVIE, FLORIDA

By: _____
Mayor

**[to be delivered to Broward County Department of
Finance and Administrative Services prior to September 15]**